

# Notice of Allowability

Application No.

09/681,065

Examiner

Jared J. Fureman

Applicant(s)

ROBINSON, MARTIN C.

Art Unit

2876

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to the telephone interview on 7/11/2003.
2. ☒ The allowed claim(s) is/are 1-22,24-55,63-110 and 114-221.
3. ☒ The drawings filed on 15 December 2000 are accepted by the Examiner.
4. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) ☐ All b) ☐ Some\* c) ☐ None of the:
    1. ☐ Certified copies of the priority documents have been received.
    2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
    3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\* Certified copies not received: \_\_\_\_\_.

5. ☒ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
  - (a) ☐ The translation of the foreign language provisional application has been received.
6. ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application. **THIS THREE-MONTH PERIOD IS NOT EXTENDABLE**

7. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
8. ☐ CORRECTED DRAWINGS must be submitted.
  - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
    - 1) ☐ hereto or 2) ☐ to Paper No. \_\_\_\_\_.
  - (b) ☐ including changes required by the proposed drawing correction filed \_\_\_\_\_, which has been approved by the Examiner.
  - (c) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No. \_\_\_\_\_.

Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet.

9. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

## Attachment(s)

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|--|--|
| 1 <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                             | 2 <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3 <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                    | 4 <input checked="" type="checkbox"/> Interview Summary (PTO-413), Paper No. <u>13</u> |
| 5 <input type="checkbox"/> Information Disclosure Statements (PTO-1449), Paper No. _____               | 6 <input checked="" type="checkbox"/> Examiner's Amendment/Comment                     |
| 7 <input type="checkbox"/> Examiner's Comment Regarding Requirement for Deposit of Biological Material | 8 <input checked="" type="checkbox"/> Examiner's Statement of Reasons for Allowance    |
|  | 9 <input type="checkbox"/> Other   |

### DETAILED ACTION

1. Receipt is acknowledged of the petition for extension of time and the amendment filed on 4/18/2003, which has been entered in the file. Claims 1-22, 24-110, 114-221 are pending, claims 56-62 being withdrawn from consideration.

### EXAMINER'S AMENDMENT

2. An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it **MUST** be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with Mr. Michael F. Williams (39,875) on 7/11/2003. During the interview, the examiner noted (regarding claim 63) that Rawlins teaches an automated marker dispenser (see figure 3), and that In re Venner (see MPEP 2144.04 III) shows that broadly providing an automatic or mechanical means to replace a manual activity which accomplished the same result is not sufficient to distinguish over the prior art. Mr. Williams authorized an examiner's amendment to cancel non-elected claims 56-62, and amend claims 63 and 216-221, as follows, in order to place the application into condition for allowance.

The application has been amended as follows:

#### **In the claims:**

Claims 56-62 have been cancelled.

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Claim 63 has been replaced with the following amended claim (see attached version with markings to show changes made).

63. (twice amended) A material identification system, comprising:

a plurality of property identification markers;

an automated marker dispenser capable of periodically dispensing said plurality of property identification markers into a flowing bulk flowable material; and

a property identification marker preparation component capable of associating information with said plurality of property identification markers while said automated marker dispenser periodically dispenses property identification markers into a flowing bulk flowable material;

wherein said plurality of property identification markers carry information identifying a physical characteristic of a bulk flowable material in which said property identification marker is placed.

Claim 216, line 4: "the" (first occurrence) has been replaced with --a--, in order to avoid a lack of proper antecedent basis for "the volume".

Claim 217, line 4: "the" (first occurrence) has been replaced with --a--, in order to avoid a lack of proper antecedent basis for "the volume".

Claim 218, line 4: "the" (first occurrence) has been replaced with --a--, in order to avoid a lack of proper antecedent basis for "the mass".

Claim 219, line 4: "the" (first occurrence) has been replaced with --a--, in order to avoid a lack of proper antecedent basis for "the mass".

Claim 220, line 4: "the" (first occurrence) has been replaced with --a--, in order to avoid a lack of proper antecedent basis for "the weight".

Claim 221, line 4: "the" (first occurrence) has been replaced with --a--, in order to avoid a lack of proper antecedent basis for "the weight".


***Allowable Subject Matter***

3. Claims 1-22, 24-55, 63-110, and 114-221 have been allowed over the prior art of record.
4. The following is an examiner's statement of reasons for allowance: The prior art of record, taken alone or in combination, fails to teach or fairly suggest: a method, system, and apparatus for identifying a characteristic of a bulk flowable material including storing information related to the bulk flowable material on a property identification marker, the storing being performed concurrent with the step of causing the bulk flowable material to flow; associating information with the plurality of property identification markers while the automated marker dispenser periodically dispenses property identification markers into a flowing bulk flowable material; preparing a property identification marker by associating identification data with the property identification

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marker, the preparing being performed concurrent with causing a harvested bulk flowable material to flow; storing information related to the harvested bulk flowable material on a readily-identifiable property identification marker, the storing being performed concurrent with causing a harvested bulk flowable material to flow; storing information related to the bulk flowable material on a property identification marker, the storing being performed after periodically dispensing a property identification marker; reading a dispensed property identification marker, and using data obtained via the reading step to calculate: statistical information related to the bulk flowable material, the bulk flowable material's volume, the bulk flowable material's mass, or the bulk flowable material's weight, in combination with the other claimed limitations as set forth in the claims.

While Graham (WO 99/04259 A1, previously cited) teaches a property identification system and a method for identifying a characteristic (the quality and/or batch) of a bulk flowable material (animal feeds or plant seeds), comprising the steps of: selecting a bulk flowable material having a determined property, causing the bulk flowable material to flow (during mixing, for example), and mixing a plurality property identification markers (tracers) with the bulk flowable material (see figure 1, pages 1 and 2), Graham fails to specifically state how the tracers are dispensed, and thus fails to teach periodically dispensing a property identification marker into the bulk flowable material. Furthermore, Graham teaches that the tracers are distinguishable by coloring and by coding (numbers and letters for example) on the tracer particles (see page 2, lines 8), thus, this information (the coloring, numbers, and letters) would have to be



associated with the tracer prior to the tracer being mixed with the bulk flowable material, and not concurrently or after dispensing the marker into the bulk flowable material.

Graham also teaches mixing the tracer in a given tracer to material ratio (0.1 to 1000 grams of tracer to 1000 kilograms of feed, for example, see page 2 lines 8-13).

However, Graham fails to teach reading a dispensed tracer, and using data obtained via the reading step to calculate: statistical information related to the bulk flowable material, the bulk flowable material's volume, the bulk flowable material's mass, or the bulk flowable material's weight.

Rawlins (US 5,845,229, cited by applicants) teaches a method for identifying a characteristic of a bulk flowable material comprising the steps of: selecting a bulk flowable material (crop 41) having a determined property (field location), causing the bulk flowable material to flow, dispensing (via dispenser 46) a property identification marker (54) into the bulk flowable material, associating information (the particular field location) with the property identification marker concurrently with or after the automated marker dispenser dispenses a particular property identification marker into the flowing bulk flowable material (see figures 1-5, column 4 line 1 - column 7 line 28). However, Rawlins only dispenses a single marker (54) for each particular determined property (field location) of the bulk flowable material. Thus, while Rawlins dispenses a plurality of property identification markers, each marker is dispensed into a bulk flowable material having a different predetermined property (field location). Therefore, Rawlins does not teach dispensing a plurality of markers into a bulk flowable material having a determined property (that is, a single determined property). Each marker (54) stores an

unalterable individual code number, which would necessarily be stored or created at the time of producing the markers, rather than concurrently to or after being dispensed (see column 4 line 60 - column 5 line 18).

Given the different functionality and goals of Graham and Rawlins, and without the benefit of applicant's teachings, there is no motivation for one of ordinary skill in the art at the time of the invention to combine the various teachings of the prior art in a manner so as to create the present invention.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

### ***Conclusion***

5. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Carlson et al (US 2003/0009254 A1) teaches a method for tracking the identity traits of commodities, including tagging the commodity with a tag associated with a unique identifier. Bleikolm et al (EP 0 927 749 A1) teaches encoded particles incorporated in a bulk material, for identifying and preventing articles from being counterfeited (see paragraphs 1, 29, and 30).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jared J. Fureman whose telephone number is (703) 305-0424. The examiner can normally be reached on 7:00 am - 4:30 PM M-T, and every other Friday.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael G. Lee can be reached on (703) 305-3503. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 308-7722 for regular communications and (703) 308-7722 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0956.

July 13, 2003

*Jared J. Fureman*  
Jared J. Fureman  
Art Unit 2876

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**Version with markings to show changes made.**

63. (twice amended)      A material identification system, comprising:
- a plurality of property identification markers; [and]
  - an automated marker dispenser capable of periodically dispensing said plurality of property identification markers into a flowing bulk flowable material; and
  - a property identification marker preparation component capable of associating information with said plurality of property identification markers while said automated marker dispenser periodically dispenses property identification markers into a flowing bulk flowable material;
- wherein said plurality of property identification markers carry information identifying a physical characteristic of a bulk flowable material in which said property identification marker is placed.

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